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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 19 June 1992 from the Permanent Representative of Palestine to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

1. I wish to draw your attention to the recent and growing deterioration of the human rights situation in the occupied Palestinian territories as a result of ongoing Israeli practices. From the outset, these practices have penetrated all aspects of life of the Palestinian people under Israeli military occupation and have gravely violated the principles of human rights and basic freedoms. By their systematic nature these practices express a consistent Israeli policy.

2. I present you below with a detailed picture of this situation, in the hope that this will strengthen common efforts in international forums to bring to a halt these practices which take a daily toll in human life and which impose harsh suffering on a people who have been under military occupation for 25 years, and who are still waiting for the international community to take on an effective role in liberating their land and in regaining their inalienable national rights.

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3. Since 25 May 1992, the Israeli occupation authorities have imposed a military blockade of the occupied Gaza Strip, as well as a curfew on the camps of Nuseirat, al-Maghazi, al-Bureij, and the town and camp of Deir al-Balah. This threatens to lead to starvation in the Strip, which suffers from a collective punishment imposed on it and the more than 700,000 people living there. This situation constitutes a grave and flagrant violation of the provisions of the Fourth Geneva Convention of 1949.

4. The blockade is accompanied by brutal acts carried out by the occupation authorities and Israeli settlers, such as shooting and killing Palestinian citizens, destroying homes and personal property, burning household possessions, uprooting fruit trees, and indiscriminately and arbitrarily arresting groups of youths. These acts are carried out at the behest of the Israeli Minister of Defence who ordered the closure of the Gaza Strip, with the status of a "closed military area", and enforced a full curfew over large areas of it. This has endangered the lives of Palestinian citizens, especially in view of the critical shortages of food and medical supplies which have endured for many months.

5. The Israeli occupation authorities have subjected all inhabitants of the Gaza Strip to a series of measures which further aggravate their suffering, restricting their freedoms and their movement, cutting off their livelihoods, and targeting all aspects of economic, social, health, educational and religious life. This aims at starving citizens and subjecting them to the harshest living conditions, encouraging depopulation of the land and emigration of Palestinian citizens, a process known as "transfer". Today, the occupied Gaza Strip continues to struggle under these measures.

6. The Palestinian people throughout the occupied territories of the Gaza Strip and the West Bank were subjected during the month of May 1992 to the hysteric escalation of acts of violence and crimes carried out by Israeli soldiers and armed settlers, hostages to the electioneering of the Israeli occupation authorities who aim to secure the victory of the ruling Likud Party in the forthcoming Israeli elections. Consequently, over and above the authorities' primary aim to eliminate their presence and take their land, Palestinian individuals and their inviolate human rights have been reduced to mere pawns used at will, at the expense of those same rights and in flagrant defiance of all provisions of the legitimacy of human rights and with unprecedented disregard for the principles of international law.

7. The toll of these measures during the month of May 1992 alone was 15 martyrs killed by gunfire, 897 wounded and 508 imprisoned, as well as 26 homes destroyed, 30 dunums of land confiscated and 1,280 fruit trees uprooted in the West Bank and Gaza Strip. These acts of murder, arrest, destruction, and deprivation of means of livelihood are continuing to this day against the Palestinian people, in addition to the resumed closure of universities in the occupied Palestinian territories. This has prompted the Secretary-General of the United Nations and the Chairman of the Security Council to address repeated appeals to the Government of Israel, calling for a halt to acts of violence and to the violation of the human rights of Palestinian citizens. These appeals are disregarded by the Israeli occupation authorities.

8. The International Committee of the Red Cross (ICRC) has on numerous occasions issued appeals, press releases and various reports, expressing its regret and disapproval of Israel's refusal to abide by its obligations and its continued violation of the provisions of the Fourth Geneva Convention and the principles of international humanitarian law in the occupied territories, as well as of Israel's non-recognition of the applicability of that Convention to Palestinians in the territories it occupies. This is despite the resolutions of the Security Council, the General Assembly and the Commission on Human Rights, which affirm the applicability of the Convention to those territories since 1967.

9. It is also noteworthy that ICRC expressed in a press release by its President, Mr. Cornelio Sommaruga, on 21 May 1992, its deep regret that its numerous detailed reports to, and its repeated high-level contacts with, the Israeli authorities have remained without effect. This was expressed in a statement about Israel's practices and the ill-treatment to which Palestinian detainees are subject in the occupied Palestinian territories during interrogation, even though they are protected by the Fourth Geneva Convention of 1949. The ICRC has affirmed, through its President, that the means of physical and psychological pressure which are used to obtain information and confessions constitute violations of the above-mentioned Convention, in addition to the fact that confessions obtained under duress cannot provide the basis for a fair trial.

10. The ICRC has also affirmed, through its President, that articles 31 and 32 of the Fourth Geneva Convention forbid the use of physical or moral pressure or of any measure that inflicts physical pain; accordingly the Israeli position with regard to this issue violates the provisions of related international humanitarian law. The ICRC has again called on the Government of Israel, which is a party to the above-mentioned Geneva Convention, to put a halt to these practices and to treat Palestinian detainees under interrogation in the occupied Palestinian territories in accordance with the provisions of that Convention.

11. Though the statement by the President of ICRC on 21 May 1992 was restricted to the ill-treatment of Palestinian detainees in the occupied territories, it constitutes a position for which we and all peoples of the world express our gratitude and appreciation, and it reflects the deep concern of ICRC for the application and respect of the Fourth Geneva Convention of 1949 in all circumstances. However, the Israeli practices against the Palestinian people since 1967 have gone so far as to include violations of the principles of international law and the Fourth Geneva Convention, as well as different violations affecting all aspects of life of the Palestinian people.

12. This has been affirmed by the special envoys of the Secretary-General of the United Nations to the occupied territories, the reports of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, the annual reports of Amnesty International and the International Commission of Jurists, as well as the American and European medical and humanitarian missions which visit the occupied territories to investigate

particular situations, not to mention the statements and reports of ICRC over 25 continuous years, as was pointed out clearly by Mr. Sommaruga, the President of ICRC, in his recent statement.

13. The Israeli occupation authorities continue to ignore the appeals and resolutions of the international community to put an end to these practices. Their continuation over the years indicates the clear intention of successive Governments of Israel to pursue such practices. This has become an established policy, which is systematically and continuously applied to achieve the political aims of liquidating or expelling the Palestinian people and taking over their land for purposes of "judaization" and the establishment of Jewish colonial settlements. This conflicts with the principles of international law and the provisions of the Charter of the United Nations, and constitutes a flagrant defiance of the resolutions of the United Nations Security Council, the General Assembly and the Commission on Human Rights. In the history of the United Nations, no Member State has ever maintained such a rejection of, and rebellion against, the will of the international community.

14. In addition to the fact that the Israeli military occupation of Palestine constitutes in itself a grave violation of Palestinian human rights, according to the repeated resolutions of the Commission on Human Rights, occupation has resulted in the impairment of productive forces and development initiatives in Palestinian society, and has emptied the land of its owners through forced emigration, deportation and bringing Jewish immigrants to settle there. It has also resulted in the fragmentation of the Palestinian economic structure and the Palestinian social fabric through the confiscation of land, the expropriation of water resources, the domination of the Palestinian economy and the gradual annexation of the occupied territories, such as the city of Jerusalem and the Syrian Golan, and the establishment of colonial settlements there in gross violation of article 49 of the Fourth Geneva Convention of 1949.

15. This has been accompanied by a firm and systematic application of what the Israeli authorities term the "iron fist" policy against the Palestinian people, introduced by the Labour Party Defence Minister at the time, Yitzhak Rabin. This was manifested in intentional killings of Palestinians - the total number of Palestinian martyrs in the past four years of the intifada (i.e. until 31 December 1991) has reached 1,432, including 202 children under the age of 16, and 117,461 persons have been injured. This has violated in a continuous manner the sacred right to life, acknowledged by the provisions of the Universal Declaration of Human Rights and the two International Covenants on Human Rights. The policy of violent beating and throwing tear-gas canisters inside homes and closed places has caused thousands of miscarriages, in an attempt to prevent the natural increase of the Palestinian people. This also is a violation of the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

16. In its intentional violation of the provisions of that Convention, Israel continues to practise the breaking of limbs and bones of youths and causing them grievous bodily harm, arbitrarily arresting them and extending the period of administrative detention from six months to one year, so that a total of 105,436 Palestinians were imprisoned during the past four years of the intifada. The authorities perpetrate the ugliest forms of ill-treatment and

torture of detainees, especially in the "Ansar 3" concentration camp, the Hebron central prison, the Thahiriyeh prison, as well as in other prisons and jails in the occupied territories and in Israel itself. This is in violation of articles 85, 92, 93, 94, 116, 118, 125 and 131 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949. Furthermore, the Israeli authorities have:

(a) Imposed curfews over different areas of the occupied territories, completely cutting them off from the outside world;

(b) Prevented the entry of food and medical supplies as a means of pressure, thus committing the ugliest of crimes against humanity;

(c) Imposed collective punishments by destroying houses, with 2,330 houses destroyed by the Israeli occupation authorities since 1987;

(d) Closed universities and schools, expelled students and arrested teachers, and distorted curricula;

(e) Arrested trade unionists and closed or taken control of union premises;

(f) Imposed exorbitant taxes and fines, destroyed crops by spraying them with poisons or burning fields, and uprooted fruit trees - in the past four years the Israeli authorities and settlers have uprooted a total of 126,825 trees owned by Palestinians, 64 per cent of which were olive trees providing the major staple food for Palestinians.

17. Israel has committed war crimes against the Palestinian people, according to the principles of international law and the provisions of international humanitarian law.

18. Mr. Cornelio Sommaruga, the President of ICRC, described in his above-mentioned statement as "ill-treatment" the manner in which the Israeli occupation authorities deal with Palestinian prisoners during interrogation. We are familiar with the language employed by ICRC which avoids calling things by their exact names for considerations related to its humanitarian mission, especially in difficult places. This "ill-treatment" is a reference to the torture practised by the Israeli occupation authorities against prisoners, which has resulted in the loss of life of many Palestinians, such as the death of the Palestinian citizen Mustapha Akkawi only recently. All of the reports of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories have included major sections on the Israeli practice of torturing Palestinians. This practice is also regularly reported by Amnesty International and by the Israeli Human Rights Centre "Betselem".

19. If such types of torture, which in their savagery and ugliness reach the point of destroying the very constitution of humans, do not fall within the provisions of articles 32 and 33 of the Fourth Geneva Convention of 1949, of article 5 of the Universal Declaration of Human Rights, of article 7 of the International Covenant for Civil and Political Rights, and of the Declaration

on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the General Assembly in resolution 3452 (XXX) of 9 December 1975, then precisely which types of torture, described in international humanitarian law as grave violations and war crimes whose perpetrators should be pursued and punished, are subject to these provisions of international law?

20. Israel has continued to act in grave violation of the provisions of article 49 of the Fourth Geneva Convention of 1949, and in flagrant defiance of numerous Security Council resolutions, most recently Security Council resolution 726 of 6 January 1992, and the relevant resolutions of the General Assembly and the Commission on Human Rights. Israel has not desisted from the policy of deporting and expelling Palestinian citizens from their homeland and depriving them of their possessions whenever possible, as one of many methods of emptying the Palestinian land of its rightful owners and inhabitants in preparation for the settlings therein of Jews brought from all over the world. Since 1967, over 3,700 Palestinian citizens have thus been deported. The policy of ongoing deportation complements that of confiscating Palestinian land in yet another grave violation of article 85 of the First Additional Protocol to the four Geneva Conventions of 1949, which considers as war crimes, all acts of deportation by occupation authorities of citizens to outside their homeland and the bringing and settling of citizens of the occupying power in the occupied territories.

21. The Israeli occupation authorities have followed a policy of expropriation of Palestinian land since the first day of their occupation of the West Bank and Gaza Strip. For this purpose it issued tens of military orders and regulations which allow it to usurp land, the most important of which are the "Absentee Property" law, "Emergency Regulations", and laws of expropriation of land for "public purposes". By resorting to these regulations, a total of 3,179,215 dunums of Palestinian land were expropriated by the occupation authorities between June 1967 and December 1987. During the past four years of the intifada and until the end of 1991, another 257,367 dunums were seized. In total, this represents some 65 per cent of the area of the occupied West Bank and Gaza Strip. As part of the process of expropriating Palestinian land, the Israeli occupation authorities have also built Jewish colonial settlements on confiscated land, with a total of 211 settlements built between June 1967 and the end of 1991.

22. The Security Council, the General Assembly and the Commission on Human Rights have dealt with the question of Israel's violations of human rights in the occupied Arab territories, including Palestine, since 1967. Each of these forums has pronounced itself repeatedly in many resolutions on this dangerous situation, which was considered by the Commission on Human Rights in several resolutions to constitute a danger to international peace and security. However, Israel has rejected and ignored these resolutions and it continues to perpetrate these violations in total disregard of the will of the international community and the principles of human rights and the provisions of international legality and the resolutions of the United Nations.

23. What is now taking place in Israel and the occupied Palestinian territory in the form of a bloody and frenzied campaign against Palestinians under the supervision and at the hands of the Israeli occupation authorities, threatens to degenerate further into genocidal massacres to be added to the list of acts of violence already perpetrated by the authorities of Israel and which were accordingly condemned by the international community. Furthermore, the deterioration of the situation without the intervention of the international community to put an end to the tragedy of the occupied Palestinian territory and of the Palestinian people under Israeli occupation also constitutes a dangerous threat to international peace and security. This is especially true since all that is now taking place is a natural result of the Israeli military occupation of the Palestinian territory, in addition to the threat posed by the occupation itself to international peace and security, according to the bases of international law, the provisions of the Charter and the resolutions of the United Nations.

24. This overall deteriorating situation places a great responsibility on the international community to provide international protection to the Palestinian people under occupation as a temporary measure which must end when the international community, which rose up with astonishing enthusiasm and activity to apply the international rule of law elsewhere in the world, is able to force Israel to abide by its international obligations, and its obligations as a member of the United Nations and a party to the Fourth Geneva Convention.

25. We, hereby, kindly request you to consider the present memorandum as an official document of the coming session of the Commission on Human Rights as well as of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and distribute it as such to the participants.

(Signed): Nabil Ramlawi
Ambassador
Permanent Observer
Representative of Palestine
to the United Nations Office at Geneva